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RUEHNE/AMEMBASSY NEW DELHI 5683
RUEHKO/AMEMBASSY TOKYO 6866
RUEHBS/USEU BRUSSELS
RUCPDO/DEPT OF COMMERCE WASHDC
RUCNDT/USMISSION USUN NEW YORK 2658
RUEATRS/DEPT OF TREASURY WASHDC
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 RANGOON 000526

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STATE FOR EAP/MLS,
TREASURY FOR OASIA, OFAC

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TAGS: [ECON](#) [EFIN](#) [ETRD](#) [PREL](#) [PGOV](#) [PINR](#) [BM](#)
SUBJECT: CATERPILLAR RE-ENTERING BURMESE MARKET

Classified By: Economic Officer Marc Porter for Reasons 1.4 (b and d).

Summary

1. (C) In a August 6 meeting with Charge, Caterpillar executives explained that Caterpillar Asia plans to re-enter the Burmese market to avoid losing further business to regional competitors, notably Chinese firms. Caterpillar's legal department has concluded the firm can export to Burma without running afoul of EU and U.S. sanctions, and Caterpillar has hired a respected local consulting firm to review its activities and ensure compliance. Caterpillar executives had just returned from a two-day visit to Nay Pyi Taw where they informed a range of GOB officials, including ministers, of their intentions. Charge noted that the USG encourages U.S. exports, so long as those exports comply with all applicable laws and regulations. He urged them to exercise caution and due diligence. End summary.

Losing Business to Rivals, Caterpillar Intends Return to Burma

2. (C) Charge, DCM, and Econoff met August 6 with four representatives from Caterpillar, including Singapore, Thailand, and Burma based executives led by Kevin Thieneman, president of Caterpillar Asia Pte Ltd., and Sumit Mazumder, vice chairman of TIL Ltd. (Caterpillar's India subsidiary that has a sub-office in Burma). The executives reported a significant loss of business to Caterpillar's rivals as a result of its Burmese subsidiary's appearance on the EU Sanctions annex. Following that listing, Caterpillar undertook what the representatives called a "conservative" interpretation of EU policy and refrained from exports of products to Burma that included any EU member-state content (even a bolt or a nut, as one executive said in a previous meeting). Apparently, that captured a wide range of Caterpillar products.

Attorneys Give Green Light

3. (C) Thieneman informed the CDA that in the absence of any clarity or implementing regulations from the European Commission, the company's attorneys revisited the sanctions issue and have now taken what Thieneman acknowledged is a more liberal interpretation. Caterpillar is thus "re-entering" the Burmese market; the firm plans to observe strictly the letter of the law and regulations on all sanctions but will no longer voluntarily exclude itself from

this market. The company executives were not clear on what internal standards they would apply regarding rules of origin (i.e., at what point a product will be treated as sufficiently European to withhold sales here), but did note they would stay away from EU sanctioned sectors such as mining and timber.

¶4. (C) With regard to U.S. sanctions -- never the real problem for the company here -- Caterpillar plans to continue its policy of strictly avoiding all sales to individuals and entities on the OFAC list. SGS Myanmar Limited (a Burma-based inspection and certification company) will conduct due diligence checks for Caterpillar to ensure its customers are not OFAC-listed and to ensure equipment sold to lawful Burmese customers does not subsequently end up with OFAC-listed entities. Charge welcomed the information, reiterated Embassy support for legal U.S. exports that conform to both sanctions and ethics laws, and urged the executives to make sure the company's legal department carefully examines their plans.

Visit to Nay Pyi Taw

¶5. (C) The Caterpillar group met with the CDA after returning from a two-day trip to Nay Pyi Taw (which we had no hand in organizing and did not know of in advance). The executives had a series of meetings with Burmese officials, including some at the ministerial level, at the Ministries of Construction, Agriculture, Industry 1, Industry 2, Electric Power, and Railways to explain Caterpillar's intent to resume

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sales in Burma. They reported that GOB officials expressed high regard for Caterpillar products and technical support. Charge inquired whether that meant the company is intending to sell to the government. The Caterpillar reps said they do not sell to the government but recognize that the GOB issues import licenses, which could affect their business. They also said the Nay Pyi Taw meetings provided them information on planned public and private projects which could offer commercial opportunities.

¶6. (C) Thieneman expressed concern about growing Chinese competition in the heavy equipment sector due to rising Chinese investment and influence in Burma. He noted Chinese investments and projects are usually "tied" -- i.e., require inputs, including equipment, from PRC suppliers. At the same time, several ministers noted an interest in developing local manufacturing capability that presumably would compete with imports. The executives acknowledged that U.S. sanctions and the relatively small size of the Burmese market would preclude Caterpillar from pursuing any licensing or foreign investment in such projects.

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